Discussion for Executive Appropriations Interim Committee

Need: The current budgeting process requires the Trust Lands Administration (TLA) to submit a budget in August of each year. This budget works its way through the traditional process:

- submission to Governor for inclusion in the Governor's Budget Request;
- Appropriation Subcommittee review and approval;
- inclusion in budget adopted by legislature during general session;
- availability of budgeted funds beginning with commencement of fiscal year in July;
- expenditure of appropriated budget during the following 12 months.

The last dollars spent from the appropriation can occur 23 months after the Board of Trustees adopts an annual budget. Unanticipated costs and opportunities can easily occur during this 23-month period. With the legislative charge given to TLA to function more like private enterprise and less like government, this extended period between budget approval by the Board of Trustees and actual expenditure of funds has created challenges in the past[1], and will likely do so in the future.

Unique Financial Situation of the Trust Lands Administration: Unlike almost every other government agency, TLA collects the money for its operations from its revenues. As fees, rentals, payments and royalties are collected by TLA from users of trust lands, monies are periodically deposited into the Land Grant Management Fund (an Enterprise Fund created in 53C-3-101(1)), until the appropriated amount is met. TLA conducts all of its functions using expenditures from this fund. No other entity of the state is allowed to use these funds, or to divert any revenue from the operations of TLA. All revenues in excess of the amount appropriated to TLA are deposited in the Permanent School Fund. Any Land Grant Management Fund revenues unexpended at the end of each fiscal year are also deposited into the Permanent School Fund. TLA is required to lapse all unexpended proceeds at the end of every fiscal year. TLA routinely expends about 10% of the money it earns during the year. Consequently, there are ample funds available to meet unanticipated needs and opportunities - without impacting the money appropriated to any other entity of the state.

Suggestions to Resolve this Dilemma: The Board of Trustees and Administration have discussed possible alternatives to address this concern:

1. <u>Remove SITLA from the legislative appropriation process</u>. *Although other self-funded independent entities are not subject to the legislative appropriation process, the Board of Trustees feels that ongoing oversight by the legislature through the appropriation process is beneficial for the operation of TLA. Consequently, they are not recommending this alternative.*
2. <u>Overspend the appropriation when necessary</u>. *Although the legislature has been very accommodating when asked to address funding needs, overspending the appropriation - in anticipation that the legislature will appropriate the necessary amounts during the general session - leaves TLA subject to undesirable violations of the Money Management Act.*

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[1] Several years ago, TLA was fined over $350,000 by EPA as a result of illegal actions by a lessee. Fortunately, payment of the fine could be made during a period of the year when a supplemental appropriation was possible. This solution is limited to a very short period of the year.

3. Amend Title 53C to allow for transfer of money between 'Line Items'. *TLA operates under three line items in the state budget. Typically, there are unspent funds in the Capital Fund Line Item that could be used to supplement shortfalls in the other two Line Item budgets. Under this proposal, the ability to spend between Line Items could only be utilized after approval from the Executive Appropriations Interim Committee.*
4. Amend Title 53C to allow for additional expenditure from revenues. *As mentioned above, there are always revenues in excess of appropriations that could be utilized to address unanticipated needs or opportunities. Authorizing use of additional revenues (supplementing the appropriation) would have no impact on other state appropriations since these monies were not available for appropriation to other entities in any event. Again, authorization for supplementing the appropriated budget would be subject to review and approval by the Executive Appropriations Interim Committee.*

Option three or four (or a combination of both) would address this concern, would not impact any other appropriation to any other state entity, and would maintain appropriate legislative oversight into the operations of TLA. It would be expected that any modification to the regularly-appropriated budget would be reported to the applicable Appropriations Subcommittee during the following legislative general session.